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SENATE BILL 5082

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State of Washington

65th Legislature

2017 Regular Session

By Senator Pearson

Read first time 01/12/17. Referred to Committee on Financial Institutions & Insurance.

1 AN ACT Relating to requiring the owner of a rental property or  
2 condominium to certify compliance with fire safety requirements prior  
3 to obtaining insurance for the premises; amending RCW 64.34.352; and  
4 adding a new section to chapter 48.18 RCW.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 NEW SECTION. **Sec. 1.** A new section is added to chapter 48.18  
7 RCW to read as follows:

8 (1) Prior to issuing or renewing a policy of insurance to the  
9 owner of commercial or residential rental property for coverage of  
10 the premises, the insurer must require the owner to certify that the  
11 owner has complied with all applicable laws and building codes  
12 relating to the installation of smoke detectors and fire alarms on  
13 the premises.

14 (2) Prior to issuing or renewing a policy of insurance to an  
15 association for a condominium pursuant to RCW 64.34.352, the insurer  
16 must require the association to certify that the condominium is in  
17 compliance with all applicable laws and building codes relating to  
18 the installation of sprinklers, smoke detectors, and fire alarms in  
19 the common elements of the premises.

1       **Sec. 2.** RCW 64.34.352 and 1992 c 220 s 18 are each amended to  
2 read as follows:

3       (1) Commencing not later than the time of the first conveyance of  
4 a unit to a person other than a declarant, the association shall  
5 maintain, to the extent reasonably available:

6       (a) Property insurance on the condominium, which may, but need  
7 not, include equipment, improvements, and betterments in a unit  
8 installed by the declarant or the unit owners, insuring against all  
9 risks of direct physical loss commonly insured against. The total  
10 amount of insurance after application of any deductibles shall be not  
11 less than eighty percent, or such greater amount specified in the  
12 declaration, of the actual cash value of the insured property at the  
13 time the insurance is purchased and at each renewal date, exclusive  
14 of land, excavations, foundations, and other items normally excluded  
15 from property policies; and

16       (b) Liability insurance, including medical payments insurance, in  
17 an amount determined by the board of directors but not less than the  
18 amount specified in the declaration, covering all occurrences  
19 commonly insured against for death, bodily injury, and property  
20 damage arising out of or in connection with the use, ownership, or  
21 maintenance of the common elements.

22       (2) If the insurance described in subsection (1) of this section  
23 is not reasonably available, or is modified, canceled, or not  
24 renewed, the association promptly shall cause notice of that fact to  
25 be hand-delivered or sent prepaid by first-class United States mail  
26 to all unit owners, to each eligible mortgagee, and to each mortgagee  
27 to whom a certificate or memorandum of insurance has been issued at  
28 their respective last known addresses. The declaration may require  
29 the association to carry any other insurance, and the association in  
30 any event may carry any other insurance it deems appropriate to  
31 protect the association or the unit owners.

32       (3) Insurance policies carried pursuant to subsection (1) of this  
33 section shall provide that:

34       (a) Each unit owner is an insured person under the policy with  
35 respect to liability arising out of the owner's interest in the  
36 common elements or membership in the association;

37       (b) The insurer waives its right to subrogation under the policy  
38 against any unit owner, member of the owner's household, and lessee  
39 of the owner;

1 (c) No act or omission by any unit owner, unless acting within  
2 the scope of the owner's authority on behalf of the association, will  
3 void the policy or be a condition to recovery under the policy; and

4 (d) If, at the time of a loss under the policy, there is other  
5 insurance in the name of a unit owner covering the same risk covered  
6 by the policy, the association's policy provides primary insurance.

7 (4) Any loss covered by the property insurance under subsection  
8 (1)(a) of this section must be adjusted with the association, but the  
9 insurance proceeds for that loss are payable to any insurance trustee  
10 designated for that purpose, or otherwise to the association, and not  
11 to any holder of a mortgage. The insurance trustee or the association  
12 shall hold any insurance proceeds in trust for unit owners and  
13 lienholders as their interests may appear. Subject to the provisions  
14 of subsection ~~((+7))~~ (8) of this section, the proceeds must be  
15 disbursed first for the repair or restoration of the damaged  
16 property, and unit owners and lienholders are not entitled to receive  
17 payment of any portion of the proceeds unless there is a surplus of  
18 proceeds after the property has been completely repaired or restored  
19 or the condominium is terminated.

20 (5) An insurance policy issued to the association does not  
21 prevent a unit owner from obtaining insurance for the owner's own  
22 benefit.

23 (6) An insurer that has issued an insurance policy under this  
24 section shall issue certificates or memoranda of insurance to the  
25 association and, upon written request, to any unit owner or holder of  
26 a mortgage. The insurer issuing the policy may not modify the amount  
27 or the extent of the coverage of the policy or cancel or refuse to  
28 renew the policy unless the insurer has complied with all applicable  
29 provisions of chapter 48.18 RCW pertaining to the cancellation or  
30 nonrenewal of contracts of insurance. The insurer shall not modify  
31 the amount or the extent of the coverage of the policy, or cancel or  
32 refuse to renew the policy without complying with this section.

33 (7) An insurer may not issue an insurance policy pursuant to  
34 subsection (1) of this section unless the association has certified  
35 that the condominium is in compliance with all applicable laws and  
36 building codes relating to the installation of sprinklers, smoke  
37 detectors, and fire alarms in the common elements of the premises as  
38 provided in section 1 of this act.

39 (8) Any portion of the condominium for which insurance is  
40 required under this section which is damaged or destroyed shall be

1 repaired or replaced promptly by the association unless: (a) The  
2 condominium is terminated; (b) repair or replacement would be illegal  
3 under any state or local health or safety statute or ordinance; or  
4 (c) eighty percent of the unit owners, including every owner of a  
5 unit or assigned limited common element which will not be rebuilt,  
6 vote not to rebuild. The cost of repair or replacement in excess of  
7 insurance proceeds and reserves is a common expense. If all of the  
8 damaged or destroyed portions of the condominium are not repaired or  
9 replaced: (i) The insurance proceeds attributable to the damaged  
10 common elements shall be used to restore the damaged area to a  
11 condition compatible with the remainder of the condominium; (ii) the  
12 insurance proceeds attributable to units and limited common elements  
13 which are not rebuilt shall be distributed to the owners of those  
14 units and the owners of the units to which those limited common  
15 elements were allocated, or to lienholders, as their interests may  
16 appear; and (iii) the remainder of the proceeds shall be distributed  
17 to all the unit owners or lienholders, as their interests may appear,  
18 in proportion to the common element interests of all the units. If  
19 the unit owners vote not to rebuild any unit, that unit's allocated  
20 interests are automatically reallocated upon the vote as if the unit  
21 had been condemned under RCW 64.34.060(1), and the association  
22 promptly shall prepare, execute, and record an amendment to the  
23 declaration reflecting the reallocations. Notwithstanding the  
24 provisions of this subsection, RCW 64.34.268 governs the distribution  
25 of insurance proceeds if the condominium is terminated.

26 ~~((+8))~~ (9) The provisions of this section may be varied or  
27 waived as provided in the declaration if all units of a condominium  
28 are restricted to nonresidential use.

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